

# **Title 52 Chapter 4**

## **OPEN AND PUBLIC MEETINGS**

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#### **52-4-1. Declaration of public policy.**

In enacting this chapter, the Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

#### **52-4-2. Definitions.**

As used in this chapter:

(1) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction.

(2) (a) "Meeting" means the convening of a public body, with a quorum present, whether in person or by means of electronic equipment, for the purpose of discussing or acting upon a matter over which the public body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance meeting; or  
(ii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:

(A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or

(B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.

(3) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) consists of two or more persons;  
(ii) expends, disburses, or is supported in whole or in part by tax revenue; and  
(iii) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" does not include any:

(i) political party, group, or caucus; nor  
(ii) any conference committee, rules committee, or sifting committee of the Legislature.

(4) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have jurisdiction.

#### **52-4-3. Meetings open to the public -- Exceptions.**

Every meeting is open to the public unless closed pursuant to Sections 52-4-4 and 52-4-5.

#### **52-4-4. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.**

A closed meeting may be held upon the affirmative vote of two-thirds of the members of the public body present at an open meeting for which notice is given

pursuant to Section 52-4-6; provided, a quorum is present. No closed meeting is allowed except as to matters exempted under Section 52-4-5; provided, no ordinance, resolution, rule, regulation, contract, or appointment shall be approved at a closed meeting. The reason or reasons for holding a closed meeting and the vote, either for or against the proposition to hold such a meeting, cast by each member by name shall be entered on the minutes of the meeting.

Nothing in this chapter shall be construed to require any meeting to be closed to the public.

#### **52-4-5. Purposes of closed meetings -- Chance meetings and social meetings excluded -- Disruption of meetings.**

(1) (a) A closed meeting may be held pursuant to Section 52-4-4 for any of the following purposes:

(i) discussion of the character, professional competence, or physical or mental health of an individual;  
(ii) strategy sessions to discuss collective bargaining;

(iii) strategy sessions to discuss pending or reasonably imminent litigation; or

(iv) strategy sessions to discuss the purchase, exchange, or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms;

(v) strategy sessions to discuss the sale of real property when:

(A) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms;

(B) the public body had previously given public notice that the property would be offered for sale; and

(C) the terms of the sale are publicly disclosed before the public body approves the sale;

(vi) discussion regarding deployment of security personnel, devices, or systems; and

(vii) investigative proceedings regarding allegations of criminal misconduct.

(b) A public body may not interview a person applying to fill an elected position in a closed meeting.

(c) Nothing in this section may be construed to require any public body to approve the purchase, sale, exchange, or lease of real property if that public body is not required to approve the purchase, sale, exchange, or lease of real property under other laws.

(2) This chapter shall not apply to any chance meeting or a social meeting. No chance meeting or social meeting shall be used to circumvent this chapter.

(3) This chapter shall not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct is seriously compromised.

#### **52-4-6. Public notice of meetings.**

(1) Any public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section. The public notice shall specify the date, time, and place of such

meetings.

(2) In addition to the notice requirements of Subsection (1) of this section, each public body shall give not less than 24 hours' public notice of the agenda, date, time and place of each of its meetings.

(3) Public notice shall be satisfied by:

(a) posting written notice at the principal office of the public body, or if no such office exists, at the building where the meeting is to be held; and

(b) providing notice to at least one newspaper of general circulation within the geographic jurisdiction of the public body, or to a local media correspondent.

(4) Public bodies are encouraged to develop and use electronic means to post notice in addition to those means listed in Subsection (3).

(5) When because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature, the notice requirements of Subsection (2) may be disregarded and the best notice practicable given. No such emergency meeting of a public body shall be held unless an attempt has been made to notify all of its members and a majority votes in the affirmative to hold the meeting.

#### **52-4-7. Minutes of open meetings -- Public records -- Recording of meetings.**

(1) Written minutes or a digital or tape recording shall be kept of all open meetings. Such minutes or a digital or tape recording shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

(c) the substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken;

(d) the names of all citizens who appeared and the substance in brief of their testimony; and

(e) any other information that any member requests be entered in the minutes.

(2) Except as provided in Section 52-4-7.5, written minutes or a digital or tape recording shall be kept of all closed meetings. Such minutes or digital or tape recording shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

and

(c) the names of all others present except where such disclosure would infringe on the confidence necessary to fulfill the original purpose of closing the meeting.

(3) The minutes and recordings are public records and shall be available within a reasonable time after the meeting. A meeting record kept only by a digital or tape recording must be converted to written minutes within a reasonable time upon request.

(4) All or any part of an open meeting may be recorded by any person in attendance; provided, the recording does not interfere with the conduct of the meeting.

(5) Minutes of meetings that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(6) Written minutes or digital or tape recordings shall be public records pursuant to Title 63, Chapter 2,

Government Records Access and Management Act, but only written minutes shall be evidence of the official action taken at such meeting.

#### **52-4-7.5. Record of closed meetings.**

(1) If a public body closes a meeting to discuss the character, professional competence, or physical or mental health of an individual under Subsection 52-4-5(1)(a)(i) or to discuss the deployment of security personnel, devices, or systems under Subsection 52-4-5(1)(a)(vi), the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss:

(a) the character, professional competence, or physical or mental health of an individual; or

(b) the deployment of security personnel, devices, or systems.

(2) (a) If a public body closes a meeting under Subsection 52-4-5(1) for any purpose other than to discuss the character, professional competence, or physical or mental health of an individual or to discuss the deployment of security personnel, devices, or systems, the public body shall either tape record the closed portion of the meeting or keep detailed written minutes that disclose the content of the closed portion of the meeting.

(b) (i) Tape recordings and written minutes of closed meetings are protected records under Title 63, Chapter 2, Government Records Access and Management Act, and any person who violates the provisions of Section 63-2-801 is subject to the criminal penalties contained in that section.

(ii) Notwithstanding the provisions of Subsection 63-2-202(4)(c), tape recordings and written minutes of closed meetings, as protected records, may be disclosed pursuant to a court order only as provided in Section 52-4-10.

#### **52-4-7.8. Electronic meetings -- Authorization -- Requirements.**

(1) As used in this section:

(a) "Anchor location" means the physical location from which the electronic meeting originates or from which the participants are connected.

(b) "Electronic meeting" means a public meeting convened or conducted by means of a telephonic, telecommunications, or computer conference.

(c) "Electronic notice" means electronic mail or fax.

(d) "Monitor" means to:

(i) hear, live, by speaker, or by other equipment, all of the public statements of each member of the public body who is participating in a meeting; or

(ii) see, by computer screen or other visual medium, all of the public statements of each member of the public body who is participating in a meeting.

(e) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or see the communication.

(f) "Public hearing" means a meeting at which comments from the public will be accepted.

(g) "Public statement" means a statement made

in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(2) A public body may, by following the procedures and requirements of this section, convene and conduct an electronic meeting.

(3) Each public body convening or conducting an electronic meeting shall:

(a) give public notice of the meeting pursuant to Section 52-4-6 by:

(i) posting written notice at the anchor location; and

(ii) providing written or electronic notice to:

(A) at least one newspaper of general circulation within the state; and

(B) to a local media correspondent;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish written procedures governing the electronic meeting at which one or more members of a public body are participating by means of a telephonic or telecommunications conference;

(d) establish one or more anchor locations for the public meeting, at least one of which is in the building and city where the public body would normally meet if they were not holding an electronic meeting;

(e) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(f) if the meeting is a public hearing, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-3 and 52-4-6.

#### **52-4-8. Suit to void final action -- Limitation -- Exceptions.**

Any final action taken in violation of Sections 52-4-3 and 52-4-6 is voidable by a court of competent jurisdiction. Suit to void final action shall be commenced within 90 days after the action except that with respect to any final action concerning the issuance of bonds, notes, or other evidences of indebtedness suit shall be commenced within 30 days after the action.

#### **52-4-9. Enforcement of chapter -- Suit to compel compliance.**

(1) The attorney general and county attorneys of the state shall enforce this chapter.

(2) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to compel compliance with or enjoin violations of this chapter

or to determine its applicability to discussions or decisions of a public body. The court may award reasonable attorney fees and court costs to a successful plaintiff.

#### **52-4-10. Action challenging closed meeting.**

(1) Notwithstanding the procedure established in Subsection 63-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

(a) review the tape recording or written minutes of the closed meeting in camera; and

(b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate the law governing closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the tape recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated the law governing closed meetings, the judge shall publicly disclose or reveal from the tape recordings or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.